

FDA PROPOSED REG.	PHILIP MORRIS PRACTICES	AAA JUNE 27, 1995	SAMHSA	OTHER EXISTING FEDERAL REGS.
1. Prohibit the sale and distribution of cigarettes and STP to individuals younger than 18. (p.36)	<p>Philip Morris marketing and promotional programs are restricted to smokers 21 years of age or older. (Industry Code 1990)</p> <p>No premium item is mailed without receipt of birthdate and written, signed certification that the recipient is 21 years of age or older, a smoker and willing to receive the premium. (Industry Code 1990)</p> <p>Vendors who fulfill merchandise shipments are required to verify that smokers' order forms contain signatures and dates of birth. Absence of either a signature or a date of birth precludes an order from being fulfilled. Any vendor that is found in violation of this provision will have their contract terminated. (Industry Code, 1990)</p>	<p>Prohibits all sampling.</p> <p>Prohibits all distribution of cigarettes through the mail.</p> <p>Philip Morris packs and cartons carry a notice stating: "Underage Sale Prohibited."</p>	<p>Section 3 (a) of The Model Sale of Tobacco Products to Minors Control Act, included in the Health and Human Services' proposed SAMHSA regulations suggests that states create an Office of Tobacco Control.</p> <p>Section 5 (a) (2) of The Model Sale of Tobacco Products to Minors Control Act prohibits retailers from selling tobacco products to anyone who appears without reasonable doubt to be over 19 years of age who does not present a driver's license (or other generally accepted means of identification).</p>	

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2. Manufacturer must remove self-service displays, perform visual inspections (p.38, 48)		Support state legislation to require that all cigarette displays are within the line of sight of the sales clerk.		
3. Mandatory retailer identification of buyers not appearing at least 26 yrs. old. (p.40)	<p>Since 1990, Philip Morris sales force has placed thousands of It's The Law materials at retail which encourage clerks to check for ID.</p> <p>Since the mid-1980's, Philip Morris has supported the passage of tobacco minimum age sales laws in states with no minimum sales age and in states where the minimum sales age was less than 18.</p>	<p>Sales force will place <i>Ask First, It's The Law</i> materials at 200,000 workload accounts. Kits will be mailed to 200,000 non workload accounts.</p> <p>Training seminars will be held in conjunction with retail associations and law enforcement entities. Philip Morris will suspend merchandising benefits to retailers fined or convicted of selling to minors. Philip Morris supports legislation to require posting of minimum age signs at retail.</p>	<p>Section 5 (a) (2) of The Model Sale of Tobacco Products to Minors Control Act prohibits retailers from selling tobacco products to anyone who appears without reasonable doubt to be over 19 years of age who does not present a driver's license (or other generally accepted means of identification).</p> <p>Section 7 (b) also provides that it is an affirmative defense if a licensee affirmatively demonstrates that they have an effective system in place to prevent sales to minors.</p> <p>Section 7 (d) requires that courts notify the Director of the Office of Tobacco Control of any fine imposed.</p>	

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4. No "lock-out" devices. (p.41)	Since the mid-1980's Philip Morris has supported state legislation to prevent purchase of cigarettes by minors from vending machines. Approaches include restrictions on the location of machines, lock-out devices, and tokens available only to adults.	Support state legislation to prevent purchase of cigarettes by minors from vending machines. Approaches include restrictions on the location of machines, lock-out devices, and tokens available only to adults.	Section 5 (b) of The Model Sale of Tobacco Products to Minors Control Act prohibits vending machines. However, the Summary of the Model Law suggests that states should examine other options that may be acceptable alternatives, such as allowing sales in places not legally accessible by minors, or use of store-controlled electronic enabling devices. States could also consider phasing in the ban to minimize disruption.	
5. No single sales. (p.41)	Philip Morris does not encourage or condone the sale of single cigarettes, and has always supported legislation prohibiting the practice. Since 1993, we have supported legislation that would make single cigarettes illegal.		Section 5 (a) (3) prohibits the sale of tobacco products in any form other than an original factory-wrapped package.	

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6. Prohibit licensing non-tobacco names for brands (eg: Harley Davidson). Grandfather existing brands. (p.42)	Philip Morris does not pay for placement of any cigarette, cigarette package, or cigarette advertisement as a prop in any movie or television show produced for viewing by the general public. Philip Morris advertising does not include sports celebrities or testimonials from individuals who would have special appeal to persons under 21 years of age. (Industry Code, 1990)			

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7. Prohibit packs with fewer than 20 cigarettes. Agency considering establishing a maximum pack contents. (p.43)	Philip Morris currently markets pack configurations of both more and less than 20 cigarettes.		Section 5 (a) (3) of The Model Sale of Tobacco Products to Minors Control Act prohibits the sale of tobacco products in any form other than an original factory-wrapped package.	
8. Ban on vending machines (p.47)	Since 1990, Philip Morris supports state legislation to prevent purchase of cigarettes by minors from vending machines. Approaches include restrictions on the location of machines, lock-out devices, and tokens available only to adults.	Support state legislation to prevent purchase of cigarettes by minors from vending machines. Approaches include restrictions on the location of machines, lock-out devices, and tokens available only to adults.	Section 5 (b) of The Model Sale of Tobacco Products to Minors Control Act bans vending machines. However, the Summary of the Model Law suggests that states should examine other options that may be acceptable alternatives, such as allowing sales in places not legally accessible by minors, or use of store-controlled electronic enabling devices. States could also consider phasing of the ban to minimize disruption.	

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9. Prohibit mail-order sales and redemption of "mail-order coupons"[cites AAA]. (p.49)	No branded material is mailed without prior receipt of date of birth and written signed certification that the recipient is 21 years of age or older, a smoker and willing to receive the materials. (Industry Code, 1990) Cigarette coupons are distributed by mail only after Philip Morris receives signed certification that the recipient is 21 years of age or older, a smoker and willing to receive coupons. (Industry Code, 1990)	Prohibits all distribution of cigarettes through the mail.		
10. Prohibit sampling. (p. 49)	Philip Morris distributes coupons for free cigarettes only to smokers 21 years of age or older for redemption at retail. (Industry Code, 1990)	Prohibits all sampling.	The Model Sale of Tobacco Products to Minors Control Act does not specifically mention sampling.	

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11. Provides the "established name" for cigarettes, cigarette tobacco and STP. Labels without the established name are "misbranded." (p.52). A product's established name must be followed in advertising by the words "A Nicotine-Delivery Device." (p. 99)				Bureau of Alcohol Tobacco and Firearms regulations require that "cigarettes" be labeled as such with quantity and tax classification.

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FDA PROPOSED REG.	PHILIP MORRIS PRACTICES	AAA JUNE 27, 1995	SAMHSA	OTHER EXISTING FEDERAL REGS.
<p>12. Require each manufacturer to establish and maintain a national public educational (broadcast) program to combat the effect of cigarette advertising. (p.53) "Industry members could select from a variety of messages maintained [and reviewed] by FDA." (p.57) \$150 million, allocated proportionate to company share of total industry advertising and promotional expenditures. Manufacturers must report on program efficacy (may include tracking 12-17 yr. olds).</p>	<p>Starting in 1990, Philip Morris was a major participant in the industry's nationwide campaign, "Tobacco: Helping Youth Say No," designed to help parents and teachers educate children on how best to resist peer influence to smoke. Through ads in 17 major publications with a combined circulation of more than 200 million readers, parents and teachers were offered free this industry-sponsored guidebook. 353,000 copies of "Tobacco: Helping Youth Say No" were distributed free of charge.</p> <p>Philip Morris only conducts market research on smokers 18 years of age or older.</p>	<p>Philip Morris is funding programs directly to curtail youth access to cigarettes, including retail training seminars. Philip Morris will also participate in tobacco industry efforts.</p>	<p>Section 3 (d) (1) and (2) of The Model Sale of Tobacco Products to Minors Control Act requires retailers to post a sign stating, "IT IS A VIOLATION OF THE LAW FOR CIGARETTES OR OTHER TOBACCO PRODUCTS TO BE SOLD TO ANY PERSON UNDER THE AGE OF 19."</p>	<p>Federal Communications Commission decisions finding the Fairness Doctrine unconstitutional.</p> <p>FDA proposed regulations also raise First and Fourteenth Amendment issues.</p> <p>Federal Labeling and Advertising Act (FCLA) requires detailed reporting of advertising and promotional spending and annual reports by Federal Trade Commission of advertising and marketing practices.</p>

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13. B/W text only ads only in publications with a youth (<18) readership of >15% or 2 million people under 18. (p.60)	<p>Brand and event ads are placed in media with demographics reflecting a readership comprising no less than 80 percent persons 21 years of age or older. (Industry Code, 1990)</p> <p>Ads do not appear in school, college or university media. (Industry Code, 1964)</p> <p>Models depicted in Philip Morris advertising must be, and appear to be, 25 years of age or older. (Industry Code, 1964, amended, 1983)</p> <p>Athletes and celebrities are not depicted in Philip Morris advertisements. (Industry Code, 1964, amended, 1983)</p> <p>Philip Morris advertisements do not contain cartoon characters.</p>			The proposed FDA regulations raise substantial First and Fourteenth Amendment concerns.

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14. Advertising must contain a statement of the product's established name, intended use, warnings, precautions, side effects and contraindications. (p. 60)				Federal Cigarette Labeling and Advertising Act (FCLA) contains requirement for four versions of Surgeon General's health warning to be rotated on a calendar quarter basis on all packaging and in all advertising.

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15. Prohibits sale or distribution of all brand identifiable non tobacco items and services. (pp.60, 90-1)	<p>Since the mid-1980's, Philip Morris has taken action in over 1,800 cases to prevent the illegal use of its brand logos on products, including toys and other products for children. In 1990, Philip Morris launched a national advertising campaign specifically to notify manufacturers of children's products not to use our logos.</p> <p>Philip Morris distributes branded premium items by mail only after receipt of date of birth and written signed certification the recipient is 21 years of age or older, a smoker and willing to receive the premium. (Industry Code, 1990)</p> <p>Incentive items are distributed at retail to purchasers of legal age with the purchase of Philip Morris cigarettes. Branded clothing is produced in adults sizes only. (Industry Code, 1990)</p>	<p>Philip Morris will remain vigilant in our aggressive efforts to prevent the use of Philip Morris cigarette brand names or logos on any item marketed to minors, including video games and toys. Going forward, we will implement a program to reward members of the public who notify us of unauthorized uses of our trademarks.</p>		<p>Federal Cigarette Labeling and Advertising Act contains an exemption from warning requirements for tobacco branded non-tobacco functional items distributed to consumers for their personal use.</p>

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16. Prohibits brand identifiable sponsorship of events. (p. 60) Entries and teams in sponsored events may be branded, text only, B/W (p. 93)	Participation in Philip Morris marketing and promotional programs are restricted to smokers 21 years of age or older. (Industry Code, 1990) Audience demographics for Philip Morris sponsored events must skew 21 years of age or older. (Industry Code, 1990)			
17. Ban outdoor ads within 1000 feet of elementary or secondary school or playground. (p. 85)	Outdoor ads prohibited within 500 feet of a school, playground other center of youth activities. PM also extends its practices to exclude outdoor advertising within 500 feet of established locations of religious worship. (Industry Code, 1964)			The proposed FDA regulations raise substantial First and Fourteenth Amendment concerns.
18. Other billboards restricted to text only B/W. (p.87)				Federal Cigarette Labeling and Advertising Act (FCLA) preemption of statements relating to smoking and health.

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19. Prohibit all proof of purchase sales or gifts of non-tobacco items, as well as contests, lotteries, sweepstakes, etc. (p.92)	<p>Participation in Philip Morris marketing and promotional programs is restricted to smokers 21 years of age or older. (Industry Code, 1990)</p> <p>Entry in Philip Morris sponsored sweepstakes is limited to smokers 21 years of age or older who submit a signed certification of age and smoker status with birth date. (Industry Code, 1990)</p> <p>No premium item is mailed without receipt or birthdate and written, signed certification that the recipient is 21 years of age or older, a smoker and willing to receive the premium. (Industry Code, 1990)</p>			<p>Bureau of Alcohol, Tobacco and Firearms regulations prohibits on-pack entries for games of chance.</p> <p>Federal Cigarette Labeling and Advertising Act (FCLA) preemption of statements relating to smoking and health.</p>
20. Reverse pre-emption. (p. 107)		Support of state legislation presumes state pre-emption.		

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